

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

LUIS R. RIVERA MARQUEZ,
Plaintiff

V.

LANCASTER COUNTY, et. al.,
Defendants

CIVIL ACTION

NO.: 5:08-CV-05152-JS

SETTLEMENT AGREEMENT

IT IS HEREBY AGREED by and between Defendant **JAMES HINKSON, JR.** and Plaintiff **LUIS RIVERA MARQUEZ**, that in consideration of the total sum of TWENTY FIVE THOUSAND DOLLARS (\$25,000.00), made payable by **JAMES HINKSON, JR.** to **LUIS RIVERA MARQUEZ** and his counsel, **KEVIN C. ALLEN, ESQUIRE** as follows: \$5,000.00 paid in a lump sum on or before July 30, 2009, and thirty (30) monthly payments of \$666.67 beginning September 1, 2009, and ending February 1, 2012, **LUIS RIVERA MARQUEZ** does hereby for himself, his heirs, executors, administrators, successors and assigns, release, remise, acquit and forever discharge Defendant **JAMES HINKSON, JR.**, from any and all actions, causes of action, claims, demands, damages, liabilities or suits of any kind, in law or in equity, whether known or unknown, including but not limited to all claims and liability arising out of or in any way related to injuries and/or damages sustained as a result of the incident that occurred on or about October 30, 2006, at the Lancaster County Prison, Lancaster, PA, more fully detailed in the lawsuits captioned, "*Luis R. Rivera Marquez v. Lancaster County et al.*", United States District Court for the Eastern District of Pennsylvania, Case No. 08-5152," including specifically, but not limited to, all claims of any kind, character or description which have been



or could have been asserted against Defendant **JAMES HINKSON, JR.**, including those for attorney's fees and/or costs in this action.

Default Provisions

The occurrence of any of the following events shall constitute a Default by **JAMES HINKSON, JR** of the terms of this Settlement Agreement and Release:

1. Failure to pay any amount due as scheduled on the date required under this agreement;
2. **JAMES HINKSON, JR** seeks an order of relief under the Federal Bankruptcy laws;

or

3. A federal tax lien is filed against the assets of **JAMES HINKSON, JR**

Default Notice

Address to which **LUIS RIVERA MARQUEZ** is to give **JAMES HINKSON, JR.** written notice of default:

JAMES HINKSON, JR.
122 Robin Lane
Hummelstown, PA 17036

If **JAMES HINKSON, JR** gives written notice to **LUIS RIVERA MARQUEZ** that a different address shall be used, **LUIS RIVERA MARQUEZ** shall use that address for giving notice of default (or any other notice called for herein) to **JAMES HINKSON, JR.**

Cure of Default

Upon default, **LUIS RIVERA MARQUEZ** shall give **JAMES HINKSON, JR** written notice of default. Mailing of written notice by **LUIS RIVERA MARQUEZ** to **JAMES HINKSON, JR** via U.S. Postal Service Certified Mail shall constitute prima facie evidence of

delivery. **JAMES HINKSON, JR** shall have fifteen (15) days after receipt of written notice of default from **LUIS RIVERA MARQUEZ** to cure said default. In the case of default due to **JAMES HINKSON, JR's** failure to make timely payment as called for in this agreement, **JAMES HINKSON, JR** may cure the default by making full payment of the amount overdue under the agreement and, also, the late-payment penalty described below.

Penalty for Late Payment

There shall also be imposed upon **JAMES HINKSON, JR** a 10% penalty for any late payment computed upon the amount of any amount overdue under this agreement and for which **LUIS RIVERA MARQUEZ** has delivered a Notice of Default to **JAMES HINKSON, JR**. For example, if the agreement calls for monthly payments of \$666.67 upon the first day of each month and **JAMES HINKSON, JR** fails to make timely payment of said amount, **JAMES HINKSON, JR** (after receipt of a default notice from **LUIS RIVERA MARQUEZ**) shall be liable to **LUIS RIVERA MARQUEZ** for a penalty of \$66.67 (i.e., \$666.67 x 10%) and, to cure the default, **JAMES HINKSON, JR** must pay to **LUIS RIVERA MARQUEZ** the overdue amount of \$666.67 plus the penalty of \$66.67.

Acceleration

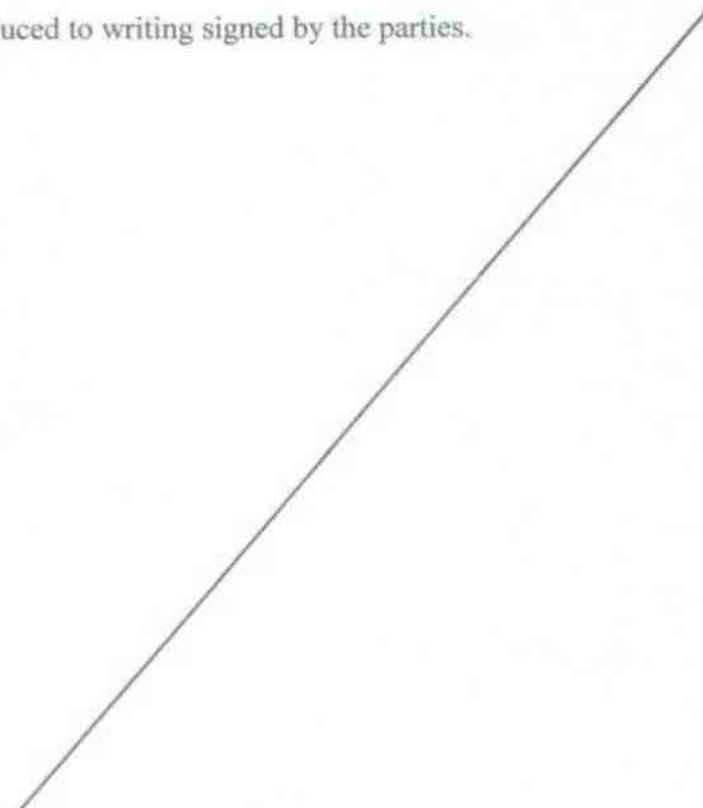
If **JAMES HINKSON, JR.** fails to cure any default on or before the expiration of the fifteen (15) day cure period that starts on the date **JAMES HINKSON, JR.** receives written notice from **LUIS RIVERA MARQUEZ** that an event of default has occurred under this agreement, the entire unpaid amount and penalties under this agreement shall accelerate and become due and payable immediately.

Indemnification of Attorneys Fees and Out-of-Pocket Costs

Should any party materially breach this agreement, the non-breaching party shall be indemnified by the breaching party for its reasonable attorneys fees and out-of-pocket costs which in any way relate to, or were precipitated by, the breach of this agreement. A default by **JAMES HINKSON, JR.** which is not cured within 15 days after receiving a written notice of default from **LUIS RIVERA MARQUEZ** constitutes a material breach of this agreement by **JAMES HINKSON, JR.**

Modification of Terms

The parties further agree that any modifications to the terms of payment must be by agreement of the parties and reduced to writing signed by the parties.



JAMES HINKSON JR. HEREBY DECLARES that he has had an opportunity to consult with an attorney of his own choosing before signing the agreement. Further, **JAMES HINKSON, JR.** has completely read, fully understands and voluntarily enters into this agreement for the purpose of making full and final compromise, adjustment and settlement of any and all claims noted above, and for the express purpose of precluding forever any future or additional suits arising out of the aforesaid claims.

LUIS RIVERA MARQUEZ HEREBY DECLARES that the terms of this settlement have been completely read and explained to him by his attorney and are fully understood and voluntarily accepted for the purpose of making full and final compromise, adjustment and settlement of any and all claims noted above, and for the express purpose of precluding forever any future or additional suits arising out of the aforesaid claims.

IN WITNESS WHEREOF, the parties to this Agreement **LUIS RIVERA MARQUEZ** and **JAMES HINKSON, JR.**, have hereunto set their hands and seals this 15 day of July, 2009.



JAMES HINKSON, JR.



SWORN TO AND SUBSCRIBED
BEFORE ME THIS 15th DAY OF
July, 2009.


NOTARY PUBLIC


LUIS RIVERA MARQUEZ


WITNESS